

### **REMARKS**

The Office Action mailed October 8, 2009 has been received and reviewed. By the present Response and Amendment, Claims 9-10 are cancelled and Claims 1-8, 11-23, 25-36, 38-42, 44-46 and 48-50 are amended. No new matter is introduced.

Claims 1, 49 and 50 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent no. 6,706,159 to Moerman et al. Applicant has amended Claims 1, 49 and 50 to claim that the plurality of pricking elements execute a pricking movement in a radial direction relative to the movement of the carrier. This amendment is supported by original Claim 9, which is now cancelled. Moerman, on the other hand, does not describe or suggest a pricking element that executes a pricking movement in a radial direction relative to the movement of a carrier. In fact, Moerman specifically describes the movement of a lancet 844 moving downward in a vertical direction, transverse to any rotation of the housing. (see Col. 8, lines 25-29; Figure 8E-8G). Consequently, one of skill in the art would conclude that Moerman does not anticipate amended Claims 1, 49 and 50 pursuant to §102(e).

Claims 1-14, 16, 18-21 and 23-50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schrage in view of U.S. Patent No. 6,706,159 to Moerman et al. For the reasons above, Applicant submits that Moerman alone does not disclose or suggest each element of amended Claims 1, 49 or 50. In fact, the two combined references do not disclose or suggest Applicant's claimed "pricking position" and "charging position". Moerman specifically describes a lancet for piercing skin and a vacuum plunger to draw blood, both incorporated into a single position and structure within the housing. (see Col. 6, lines 45-59). Schrage, alternatively, only describes having a lancet and does not describe having a sampling device. Therefore, even if combined, Schrage and Moerman do not disclose all of the elements of Claims 1, 49 and 50.

Additionally, one of skill in the art would not seek to combine the teachings of the references as suggested, because Moerman teaches away from Shraga. In particular, Shraga has a piercing zone 44 that is specifically contoured to receive a user's finger "where the piercing will generally take place." One of skill in the art would recognize that the piercing zone 44 requires a user to knowingly perform the act of placing his/her finger over the opening 54. (see Col. 4, lines 40-49; Figure 4). Further, one of skill in the art would recognize that after a user pricks his/her finger with the Shraga device, he/she is required to manually transfer any blood from the exposed finger to a separate analysis device, which is not disclosed or suggested to be incorporated in the Shraga design. On the other hand, Moerman specifically describes the act of pricking a finger as being painful and oftentimes ineffective. (see Col. 1, lines 33-40). Further, Moerman identifies a variety of reasons why the manual transfer of blood is inappropriate and/or inaccurate for glucose monitoring. (see Col. 1, lines 59-65). In fact, the Moerman device is specifically limited to a device "which does not require a separate action for the transfer of the sample from the puncture to a strip for analysis." (see Col. 3, lines 40-42). Consequently, it would not be obvious for one of skill in the art to combine the teachings of Moerman with the teachings of Shraga. Therefore, Applicant submits that the §103(a) rejection of Claims 1-14, 16, 18-21 and 23-50 is overcome.

Claims 15, 17 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al., and further in view of U.S. Patent No. 5,738,244 to Charlton et al. For the reasons above, the §103(a) rejection of Claims 15, 17 and 22, each dependent from Claim 1, is overcome.

Applicant, therefore, respectfully submits that Claims 1-7 and 10-50 are in condition for allowance.

**CONCLUSION**

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,

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